

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

BAYTREE CAPITAL ASSOCIATES, LLC
derivatively on behalf of BROADCASTER, INC.

SUMMONS IN A CIVIL ACTION

V.

NOLAN QUAN, et al.

CASE NUMBER:

08 CV 1602

JUDGE STANTON

TO: (Name and address of Defendant)

Richard Berman
420 Lexington Ave.
Suite 450
New York, NY 10170

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Sullivan Gardner, PC
475 Park Avenue South
New York, New York 10016
(212) 687-5900

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

FEB 15 2008

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (<i>PRINT</i>)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"><input type="checkbox"/> Served personally upon the defendant. Place where served:</div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"><input type="checkbox"/> Returned unexecuted:</div> <div><input type="checkbox"/> Other (specify):</div>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> Executed on _____ Date </div> <div style="width: 60%;"> _____ <i>Signature of Server</i> </div> </div> <div style="text-align: center; margin-top: 20px;"> _____ <i>Address of Server</i> </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

BAYTREE CAPITAL ASSOCIATES, LLC DERIVATIVELY ON BEHALF OF
BROADCASTER, INC.

Plaintiff(s)

- against -

Index # 08 CV 1602 (STANTON)

NOLAN QUAN, ETAL

Purchased February 15, 2008

Defendant(s)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

BARRY F. GERMAN BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on March 12, 2008 at 10:20 AM at

C/O DUNCAN CAPITAL
420 LEXINGTON AVENUE
SUITE 450
NEW YORK, NY 10170

deponent served the within SUMMONS & VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT on RICHARD BERMAN therein named,

**SUITABLE
AGE**

by delivering thereat a true copy of each to EMILY SEVILLE a person of suitable age and discretion. Said premises is Defendant's actual place of business within the state. She identified herself as the CO-WORKER of the Defendant.

Deponent further states that he describes the person actually served as follows:

Sex	Skin Color	Hair Color	Age (Approx.)	Height (Approx.)	Weight (Approx)
FEMALE	WHITE	BLONDE	30	5'6	130

MAILING

Deponent enclosed a copy of same in a postpaid wrapper properly addressed to the Defendant at the Defendant's actual place of business at

C/O DUNCAN CAPITAL
420 LEXINGTON AVENUE
SUITE 450
NEW YORK, NY 10170

and deposited said wrapper in a post office or official depository under exclusive care and custody of the United States Postal Service within New York State on March 12, 2008 by REGULAR FIRST CLASS MAIL in an envelope marked PERSONAL & CONFIDENTIAL and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.

**MILITARY
SERVICE**

Person spoken to was asked whether the Defendant was in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the Defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.


That at the time of such service deponent knew the person so served as aforesaid to be the same person mentioned and described as the Defendant in this action.

Sworn to me on: March 12, 2008

JOEL GRABER
Notary Public, State of New York
No. 02GR4699723
Qualified in New York County
Expires February 10, 2010

JOSEPH KNIGHT
Notary Public, State of New York
No. 01KN6178241
Qualified in New York County
Expires November 26, 2011

JONATHAN GRABER
Notary Public, State of New York
No. 01GR6156780
Qualified in New York County
Expires December 4, 2010


BARRY F. GERMAN
License #: 982866
Invoice #: 458520